

IN RE: PETITION FOR RESIDENTIAL ZONING VARIANCE
S/S Moores Valley Drive, 266' E of Mariposa Road C/L
2737 Moores Valley Drive
3rd Election District
2nd Councilmanic District
Olwyn Diamond, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 91-16-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance, pursuant to Section 22-26(b)(1) of the Baltimore County Code and Section 400.1 Baltimore County Zoning Regulations (B.C.Z.R.) to construct an accessory structure (swimming pool) to be located in the rear yard with a 0 ft. setback at side of property in lieu of the required 2.5 ft. setback, as more particularly described on Petitioners' Exhibit No. 1.

The Petitioners having filed a Petition for a Residential Variance, together with their neighbor (see Case 91-17-A), the subject property, known as 2737 Moores Valley Drive, having been posted and there being no request for a public hearing, this matter is ready for determination. The Petitioners are requesting a variance to allow an accessory structure (swimming pool) together with their neighbor to be located in the rear yard and on an adjoining lot with a common property line and shared by both families.

The Petitioners have filed the supporting affidavits, as required by Section 22-26 (b)(1) of the Baltimore County Code. The Petitioners have agreed, as shown on Petitioners' Exhibit No. 3, to remove the swimming

pool if either party demands its removal, sells the property to a third party, or for any other reason, needs the pool removed. The parties shall specifically agree that the pool shall be removed at the expense of the remaining party after a sale or at the expense of both parties if, for any reason, one party requires its removal. There is no evidence in the file or record to indicate that the subject variance would adversely affect the health, safety and/or general welfare of the public.

In the opinion of the Zoning Commissioner, it is established that the information and affidavits provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners. Based upon the information available, the relief should be granted.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 31st day of August 1990 that the Petition for a Zoning Variance, pursuant to Section 22-26(b)(1) of the Baltimore County Code and Section 400.1 Baltimore County Zoning Regulations (B.C.Z.R.) to construct an accessory structure (swimming pool) to be located in the rear yard with a 0 ft. setback at side of property in lieu of the required 2.5 ft. setback, in accordance with Petitioners' Exhibit No. 1, is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this

Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. The Petitioners shall have a Covenant Agreement prepared and filed in the Land Records of Baltimore County which specifically requires the removal of the subject swimming pool upon demand of either party (See case No. 91-17-A), as proposed on Petitioners' Exhibit No. 3. The Covenant Agreement shall be filed in the Land Records of Baltimore County on or before March 1, 1991 and a copy of the stamped Covenant Agreement shall be submitted to the Zoning Commissioner on or before July 1, 1991.

4. Upon request and reasonable notice, the Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:mmm
cc: Peoples Counsel

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Townson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

August 27, 1990



Dennis F. Rasmussen
County Executive

Mr. and Mrs. Olwyn Diamond
2737 Moores Valley Drive
Baltimore, Maryland 21209

RE: Petition for Residential Zoning Variance
Case No. 91-16-A

Dear Mr. and Mrs. Diamond:

Enclosed please find the decision rendered in the above captioned case. The Petition for Residential Variance has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,
J. Robert Haines
J. Robert Haines
Zoning Commissioner

JRH:mmm
encl.
cc: Peoples Counsel
cc: Mr. and Mrs. Philip Diamond

PETITION FOR RESIDENTIAL VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, petition for a Variance from Section 400.1 to construct an accessory structure in rear yard with a 0' setback at side of property in lieu of the required 2.5' setback.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons (indicate hardship or practical difficulty)

- (1) For proper supervisory views and access because of rising elevation of rear lots configuration.
- (2) To correctly balance the natural drainage as per existing grades.
- (3) Closer access for elderly pool users.

Property is to be advertised and/or posted as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Variance posting and, if necessary, advertising upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under penalties of perjury, that I/we are the owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City/State/Zip Code

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

Attorney's telephone number

ORDERED by the Zoning Commissioner of Baltimore County, this 11th day of July, 1990, that the subject matter of this petition be posted on the property on or before the 1st day of August, 1990.

A PUBLIC HEARING HAVING BEEN REQUESTED AND/OR FOUND TO BE NECESSARY, IT IS FURTHER ORDERED by the Zoning Commissioner of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that the property be advertised, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 11th day of July, 1990, at 10:00 o'clock.

ORDER RECEIVED FOR FILING

Date

By

ZONING COMMISSIONER OF BALTIMORE COUNTY

AFFIDAVIT 91-16-A

IN SUPPORT OF RESIDENTIAL ZONING VARIANCE

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows:

That the information herein given is within the personal knowledge of the Affiant(s) and Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently or upon settlement will reside at

2737 Moores Valley Drive, Baltimore, Maryland 21209
(Address)

That based upon personal knowledge, the following are the facts upon which I/we base the request for a Residential Zoning Variance at the above address: (indicate hardship or practical difficulty)

Same as front side.

That Affiant(s) acknowledge(s) that if protest is filed, Affiant(s) will be required to pay a reporting and advertising fee and may be required to provide additional information.

Myrna B. Diamond
AFFIANT (Handwritten Signature)

Olwyn Diamond
AFFIANT (Handwritten Signature)

Myrna B. Diamond
AFFIANT (Printed Name)

Olwyn Diamond
AFFIANT (Printed Name)

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 9th day of July, 1990, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Olwyn Diamond and Myrna B. Diamond

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s), and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her/their knowledge and belief.

AS WITNESS my hand and Notarial Seal.

7-9-90
DATE



Wanda H. Gonyea
Wanda H. Gonyea
Notary Public
My Commission Expires: 5-1-92

ZONING DESCRIPTION

Beginning at a point on the South side of Moores Valley Drive which is 50 feet right-of-way wide at the distance of 276 feet east of the centerline of the nearest improved intersecting street Mariposa Road which is 50 feet right-of-way wide.

Being Lot #187, Section #1, Plat #1 in the subdivision of Greenspring East as recorded in Baltimore County Plat Book #57, Folio #140, being 14,000 square feet.

Also known as 2737 Moores Valley Drive and located in the #3 Election District.

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Date

PAID AS PER
COMPUTER HAND-WRITTEN
RECEIPT

Account: R-001-6150
Number

No. 2605
2594

ITEM DESCRIPTION	QTY	PRICE
1. ZONING VARIANCE (IFL)	1	\$35.00
2. ZONING VARIANCE (IFL)	1	\$25.00
TOTAL		\$60.00

LAST NAME OF OWNER: DIAMOND

Cashier Validation

Please make checks payable to: Baltimore County

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

No. 2594
2605

Date 5-25-90
Olwyn Diamond
Residential Zoning Variance
#2737 Moores Valley Rd.

Item 419

Please make checks payable to: Baltimore County

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

91-16-A

District: 3rd Date of Posting: July 24, 1990
Posted for: Residential Variance
Petitioner: Olwyn Diamond, et ux
Location of property: 1/5 Moores Valley Drive, 266' E of Mariposa Road, Baltimore 21209
Location of Sign: In front of 2737 Moores Valley Drive
Remarks: See front of 2737 Moores Valley Drive
Posted by: S.J. Prater Date of return: July 27, 1990
Number of Signs: 1

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

July 17, 1990

Mr. & Mrs. Olwyn Diamond
2737 Moores Valley Drive
Baltimore, Maryland 21209

Dennis F. Rasmussen
County Executive

Re: CASE NUMBER: 91-16-A

ITEM NUMBER: 419

LOCATION: 2737 Moores Valley Drive

Dear Petitioner(s):

Please be advised that your Petition for Residential Zoning Variance has been assigned the above case number. Any contact made to this office should reference the case number. This letter also serves as a refresher regarding the administrative process.

1) Your property will be posted on or before August 1, 1990. The last date (closing date) on which a neighbor may file a formal request for hearing is August 16, 1990. Should such request be filed, you will receive notification that the matter will not be handled through the administrative process. This will mean advertising of the public hearing and reposting of the property. The public hearing will be scheduled approximately 30 - 45 days from receipt of said notice. In either case, (a) receipt of notification that you will have a public hearing or, (b) the posting of the closing date, the sign and post can then be removed from the property and returned to this office. Failure to return the sign and post will cause your order to be held and incur a \$50.00 charge. Please be advised that the Order will not be available for you to pick-up the day you return the sign.

2) Assuming no neighbor has requested a public hearing, the file now enters the final review stage of the administrative process. The Zoning Commissioner must now decide whether to grant or deny the request. He also has the option to request a public hearing.

3) PLEASE UNDERSTAND THAT ON THE DATE AFTER THE POSTING PERIOD, THE PROCESS IS NOT COMPLETE. THE FILE MUST GO THROUGH FINAL REVIEW AND THE DECISION MAKING PROCESS. WHEN THE ORDER IS READY IT WILL BE FORWARDED TO YOU VIA FIRST CLASS MAIL. ORDERS ARE NOT AVAILABLE FOR DISTRIBUTION PRIOR TO BEING MAILED TO YOU.

Very truly yours,

G. G. Stephens
(301) 887-3391

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

July 30, 1990

Mr. & Mrs. Olwyn Diamond
2737 Moores Valley Drive
Baltimore, MD 21209

Dennis F. Rasmussen
County Executive

RE: Item No. 419, Case No. 91-16-A
Petitioner: Olwyn Diamond
Petition for Residential Variance

Dear Mr. & Mrs. Diamond:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

Dennis F. Rasmussen
County Executive

Your petition has been received and accepted for filing this
25th day of June, 1990.

J. Robert Haines
ZONING COMMISSIONER

Received By:

JAMES E. DYER
Chairman,
Zoning Plans Advisory Committee

Petitioner: Olwyn Diamond, et ux

Petitioner's Attorney:

Baltimore County
Fire Department
700 East Joppa Road, Suite 901
Towson, Maryland 21204-5500
(301) 887-4500

Paul H. Reinecke
Chief

JULY 20, 1990

Dennis F. Rasmussen
County Executive

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: OLWYN DIAMOND
Location: #2737 MOORES VALLEY DRIVE
Item No.: 419 Zoning Agenda: JULY 31, 1990

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *Carla Kelly 7-28-90* Noted and Approved *Captain W. D. Kelly*
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KBK

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE
JULY 20, 1990

TO: J. ROBERT HAINES, ZONING COMMISSIONER, DEPARTMENT ZONING
FROM: CHARLES E. BURHAM, PLANS REVIEW CHIEF, DEPARTMENT OF PERMITS & LICENSES CEB
SUBJECT: ZONING ITEM #: 419
PROPERTY OWNER: Olwyn Diamond, et ux
LOCATION: S/S Moores Valley Dr., 26th E of Mariposa Road centerline (#2737 Moores Valley Drive)
ELECTION DISTRICT: 316
COUNCILMANIC DISTRICT:

A REVIEW OF THE SITE PLAN FOR THE ABOVE ZONING ITEM INDICATES THE FOLLOWING:

() PROPOSED SITE PLAN DOES, DOES NOT, COMPLY TO STATE CODE OF MARYLAND REGULATION 05.01.07, MARYLAND BUILDING CODE FOR THE HANDICAPPED.

() PARKING LOCATION () RAMPS (degree slope)
() NUMBER PARKING SPACES () CURB CUTS
() BUILDING ACCESS () SIGNAGE

() PLAN DOES, DOES NOT COMPLY TO SET BACKS FOR EXTERIOR FIRE SEPARATION DISTANCE OF ARTICLE 5 AND ARTICLE 9 OF THE CURRENT BALTIMORE COUNTY BUILDING CODE.

() A BUILDING PERMIT IS REQUIRED BEFORE ANY CONSTRUCTION CAN BE REQUIRED.

() A CHANGE OF OCCUPANCY PERMIT IS REQUIRED TO CHANGE THE EXISTING USE OF THE STRUCTURE TO THE PROPOSED USE. SEE ARTICLE THREE AND ARTICLE ONE, SECTION 103.2 ALTERATIONS MAY BE NECESSARY BY CODE TO COMPLY TO NEW USE REQUIREMENTS.

() STRUCTURE IS SUBJECT TO FLOOD PLAIN LIMITATIONS, SECTION 516.0 COUNCIL BILL #158-88 (BALTIMORE COUNTY BUILDING CODE).

() OTHER - IT WOULD APPEAR THAT THE LOCATION IS IN VIOLATION OF SECTION 625.4 SINCE NO OTHER SPECIFIC RULES EXIST.

PERMITS MAY BE APPLIED FOR @ ROOM 100, 111 WEST CHESAPEAKE AVENUE, TOWSON, MARYLAND 21204 - PHONE - 887-3900.

THIS REVIEW COVERS ONLY MAJOR ITEMS ASSOCIATED WITH THE SITE PLAN, A FULL REVIEW MAY BE CONDUCTED WHEN THE PERMIT APPLICATION AND PLANS ARE SUBMITTED.

CHECK ITEM APPLICABLE TO THIS PLAN

24

COVENANT

THIS COVENANT, MADE THIS 25th DAY OF July, 1991, by and between OLWYN DIAMOND and MYRNA B. DIAMOND, husband and wife, of Baltimore County, Maryland, and PHILIP DIAMOND and JANICE LESLIE DIAMOND, husband and wife, of Baltimore County, Maryland.

WHEREAS, OLWYN DIAMOND and MYRNA B. DIAMOND, husband and wife, are the owners of Lot No. 188 as shown on a Plat entitled, "1st Amended Section 1, Plat 1, GREENSPRING EAST", which Plat is recorded among the Land Records of Baltimore County in Plat Book SM No. 57, folio 140, the improvements thereon being known as No. 2737 Moores Valley Drive; and PHILIP DIAMOND and JANICE LESLIE DIAMOND, husband and wife, are the owners of Lot No. 187 as shown on Plat entitled, "1st Amended Section 1, Plat 1, GREENSPRING EAST", which Plat is recorded among the Land Records of Baltimore County in Plat Book No. 57, folio 140, the improvements thereon being known as No. 2739 Moores Valley Drive; and are desirous of subjecting said lots and property to the covenant hereinafter set forth.

WHEREAS, the parties hereto wish to erect or have built a swimming pool on said properties;

NOW, THEREFORE, THIS COVENANT WITNESSETH that the parties hereto, in consideration, that the performance of and compliance with the covenant hereinafter set forth, it is hereby agreed between the parties hereto:

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Baltimore County

TRANSFER TAX NOT REQUIRED
Director of Finance
BALTIMORE COUNTY, MARYLAND
Per *[Signature]*
Authorized Signature
Date: 7/26/91 Sec. 11-20 A2

RECORDING TRANSFER TAX
NOT APPLICABLE
SIGNATURE *[Signature]* DATE 7/26/91

RECEIVED
MAR 18 1991

ZONING OFFICE

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner

DATE: July 19, 1990

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: James F. Seal, Item No. 1
James R. Gernhart, Jr., Item No. 3
William A. Jenkins, et al, Item No. 5
Richard M. Post, Item No. 7
Robert Lee Rodowski, Item No. 8
Seven Courts Development Partnership, et al, Item No. 9
Roger Scott Weinberg, Item No. 10
George MacDonald, Item No. 14
Olwyn Diamond, Item No. 419
Philip Diamond, Item No. 420
Mark K. Harvey, Item No. 439
Michael John Reddy, Item No. 440
David Seymour Allen, Item No. 441
Robert Frank Bolling, Item No. 442
Nicholas Stamatacos/Angelina Stamatacos, Item No. 444
Stephen B. Leese, Sr., Item No. 445
Harry R. Kleinhenn, Item No. 447
Alpha J. Davis, Jr. Item No. 448
Judith L. Early, Item No. 455
David Shlamony, Item No. 456
Kirk Riggs, Item No. 457
James Paskert, Item No. 458
James M. Burke, Item No. 459
John A. Meyers, Item No. 465

In reference to the above-mentioned cases, staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

The parties hereto agree to the construction of an accessory structure (swimming pool) on said properties, said structure to be located in the rear yard of said properties, the property line to be shared by all parties.

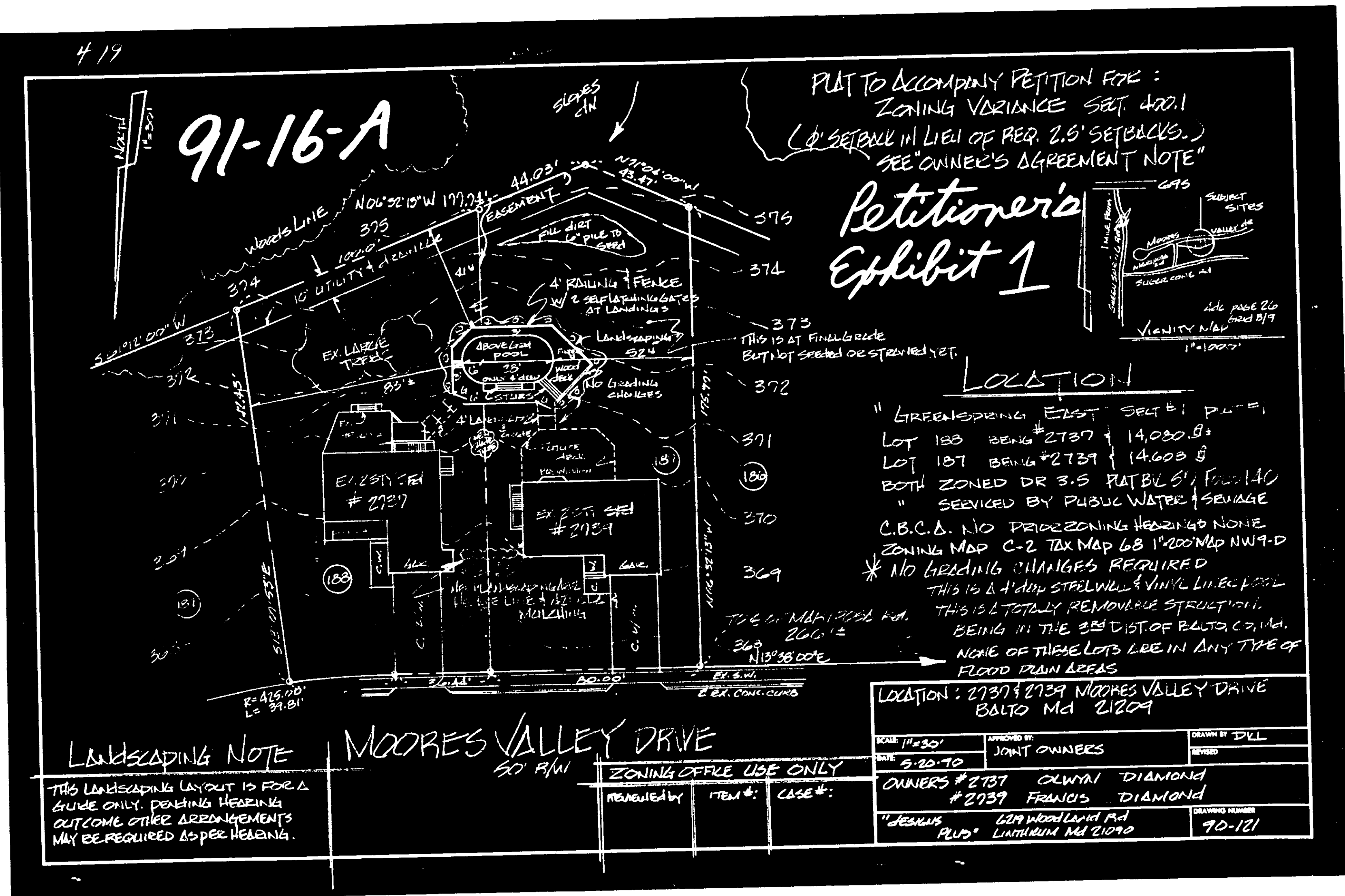
The parties hereto, or their assigns, agree to remove the accessory structure (swimming pool) if either party (OLWYN DIAMOND and MYRNA B. DIAMOND or PHILIP DIAMOND and JANICE LESLIE DIAMOND) demands its removal, sells the property to a third party who demands its removal at some future date or for any other legally binding reason that would require the removal of the structure. Said cost of removal is to be shared equally by both parties or their assignees in title.

The parties hereto hereby grant cross easements over each others property for access to and from said accessory structure (swimming pool) during the construction thereof and at any time thereafter while the said structure remains on said properties.

WITNESS THE HANDS AND SEALS OF THE PARTIES HERETO.

WITNESS:

OLWYN DIAMOND (SEAL)
MYRNA B. DIAMOND (SEAL)
PHILIP DIAMOND (SEAL)
JANICE LESLIE DIAMOND (SEAL)



BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

8-14-1-JED

TO: Mr. Jim Dyer
Office of Zoning

FROM: Mr. John R. Reisinger *
Permits and Licenses

DATE: August 13, 1990

SUBJECT: Zoning Item #419
Moore's Valley Drive - Olwyn Diamond
Plans Review comment of July 20, 1990

The above proposal to construct a pool across adjacent property lines would violate building code setback requirements. My office could approve it, however, if the pool is above ground (capable of being disassembled), and the owners submit an affidavit that indicates that the pool will be moved if either the owners sell.

JRR/nmg

cc: Building Inspection
correspondence
Plans Review - Ted Burnham

* SEE PLANS REVIEW COMMENT

Petitioner's Exhibit 2

90-16A

#419

91-16-A

The undersigned, legal owners of the properties situated in Baltimore County, hereby agree that should either party for whatever reason, sell, or be forced to sell, their home, then the proposed pool will be removed, at our expense, should the new owner(s) so desire.

LEGAL OWNERS:

Olwyn Diamond
Philip Diamond
Myrna B. Diamond
Janice L. Diamond

2737 Moores Valley Drive
Baltimore, Md. 21209
Telephone: (301) 484-7443

2739 Moores Valley Drive
Baltimore, Md. 21209
Telephone: (301) 484-8826

Letitia A. Davis
LETITIA A. DAVIS

MY COMMISSION EXPIRES
JULY 1, 1990

Petitioner's Exhibit 3

